



## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	Child Day-Care Council
<b>Virginia Administrative Code (VAC) citation</b>	22 VAC 15-30
<b>Regulation title</b>	Standards for Licensed Child Day Centers
<b>Action title</b>	Adopt New Standards for Licensed Child Day Centers
<b>Date this document prepared</b>	May 14, 2009

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Purpose

*Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.*

This planned regulatory action is a joint action to repeal the existing regulation, 22 VAC 15-30, and establish a new regulation, 22 VAC 15-31, for licensed child day centers. The goals of this regulation are to protect children under the age of 13, who are separated from their parents during part of the day to receive out of home care in a child day center, by ensuring that the activities, services, and facilities are conducive to the well-being of children and to reduce risks in the environment of the centers. The intention of the proposed action to adopt a new regulation is to improve clarity and consistency, relieve intrusive and burdensome language, and provide greater protection for children in care.

Repeal of the existing regulation and adoption of a new regulation is the most efficient and effective way to make the necessary changes to achieve clarity, consistency, and to protect children. The existing regulation has been amended and revised in its current format and structure since 1993. Repeal of the existing regulation and adoption of a new regulation will allow greater flexibility to adjust the structure, format, and language. This flexibility will allow for clarified language to improve understanding and interpretation leading to enhanced compliance and enforcement. In making the determination to repeal the existing regulation and adopt a new regulation, the Council reviewed (1) the existing regulation; (2) reports from/contacts with licensed child day centers; and (3) on-line licensing inspection reports from the Division of Licensing Programs (DOLP).

## Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

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Sections 63.2-1734 and 63.2-1735 of the Code of Virginia (Code) mandate that the Council promulgate child day center regulations designed to ensure that activities, services, and facilities are conducive to the welfare of children. Section 63.2-1734 further mandates that:

Such regulations shall be developed in consultation with representatives of the affected entities and shall include, but need not be limited to, matters relating to the sex, age, and number of children and other persons to be maintained, cared for, or placed out as the case may be, and to the buildings and premises to be used, and reasonable standards for the activities, services and facilities to be employed. Such regulations shall not require the adopting of a specific teaching approach or doctrine or require the membership, affiliation, or accreditation services of any single private accreditation or certification agency.

## Need

*Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.*

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The Code mandates that the Council promulgate child day center regulations. This regulation provides criteria for the public and the Department of Social Services (DSS) to evaluate the safety of care that children receive in licensed child day centers. The existing regulation, 22 VAC 15-30, in effect since 1993, has undergone five revisions between 1996 and 2008. The revisions addressed and resolved many critical and problematic issues, but did not address the regulation's structure and format. The outcome of the repeated content and language additions and deletions has become burdensome and confusing for both licensees and DSS staff in interpretation, understanding, and compliance. Repeal of the existing regulation and adoption of a new regulation will allow greater flexibility to adjust the structure, format, and language, thereby creating requirements conducive to greater protection of the health, safety, and welfare of children in care.

## Substance

*Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.*

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Areas of concern to be addressed in the new regulation include: (1) program director qualifications; (2) clarification of staff training requirements including the acceptance of Medication Administration Training toward annual training requirements; (3) playground surfacing requirements to bring centers into compliance with national safety standards; and (4) updates to address ever-changing national health practices.

## Alternatives

*Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.*

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The Council considered the following options: (1) make no changes to the existing standards and retain the current structure and language; (2) continue to amend the standards in their current structure and format; and (3) repeal the existing standards and adopt a new set of standards. The Council determined that it would be in the best interest of the health, safety, and welfare of children in care to repeal the existing regulation and adopt a new set of restructured, re-formatted standards.

## Participatory approach

*Please indicate, to the extent known, if advisers (e.g., ad hoc advisory committees, technical advisory committees) will be involved in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.*

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Section 63.2-1735 mandates membership on the Council to ensure representation of Virginia's child day care stakeholders. In addition, at the request of the Council, DOLP created a survey to collect comments concerning the need to modify or clarify the existing regulation, 22 VAC 15-30. The survey was distributed to Council members, 2628 licensed child day centers, licensing staff, and other interested parties. The Council has established regulatory advisory panels made up of Council members and DSS staff that will review the existing standards by section; provide guidance on structure, format, and language; and consider all comments received from the survey as the new regulation is developed.

Public hearings will be held for 22 VAC 15-31 when the proposed regulation is published.

## Family impact

*Assess the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

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The proposed regulation should strengthen the authority and rights of parents since this regulation establishes standards that impact the education, nurturing, and supervision of their children in out-of-home care. This regulation also encourages economic self-sufficiency and self-pride by helping parents locate safe and appropriate child care so they can work to support themselves or bring in additional income. Additional costs to parents due to changes in the proposed regulation are not anticipated.